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COMMISSION ON HUMAN RIGHTS

Fifty-second session

SUMMARY RECORD OF THE 5th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 20 March 1996, at 3 p.m.

Chairman: Mr. VERGNE SABOIA (Brazil)

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GE.96-11291 (E)

The meeting was called to order at 3.10 p.m.

STATEMENT BY MRS. MADELEINE K. ALBRIGHT, AMBASSADOR, PERMANENT REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE UNITED NATIONS

1. Mrs. ALBRIGHT (United States of America) said that, as the twenty-first century dawned, mankind was once again filled with the same hopes as at the start of the twentieth century. If those hopes were not to be dashed as they had been then, a framework of institutions and legal standards must be built to strengthen the elements within every society that found their inspiration in the Universal Declaration of Human Rights. It was therefore important for the whole world to support the Commission on Human Rights, which had become an indispensable forum for information and dialogue in the service of human rights.

2. Progress in the defence of human rights had indeed been made as a result of action by United Nations bodies, regional organizations or non-governmental organizations (NGOs). The Fourth World Conference on Women in Beijing had reasserted the need to develop the effective participation of women in all aspects of life in society and to put an end to violence against women. The efforts of all those who believed in peace in order to combat the barbarous forces of terror could not but be welcome. Nevertheless, violations of fundamental human rights continued to occur too often, in too many places. They were not inevitable, since they resulted from a choice. In order to put an end to them, that choice must be redirected towards greater respect for the dignity and worth of every human being. That should be the Commission's mandate.

3. While it was true that economic and political rights were of equal importance and were equally worthy of the Commission's attention, there could be no doubt that in the contemporary world the totalitarian or authoritarian impulse remained a dominant source of human rights violations and was an enemy not only to political freedom but to economic and social development as well. As the Government of the United States had frequently said in many forums, democratic practices not only protected individuals but allowed whole communities to flourish and grow. That had been demonstrated in the course of the previous decade by the various countries, in the five continents, which had embraced more open economic and political systems.

4. Unfortunately, that growing democratic trend was not universal. Too many Governments continued to rely not on the consent of those they governed but on coercion. It was thus normal for the Commission, which had been established to provide a voice for those denied the right to speak by their own Governments, to repudiate those Governments and endeavour to protect the victims of repression - the political prisoners of Cuba or China, those doing forced labour in Burma, the victims of torture in Nigeria or Iraq or the subjects of religious persecution in the Sudan or Iran. No Government should be surprised by the Commission's interest in the human rights situation in specific countries, since, under the Charter of the United Nations, each nation had affirmed its faith in fundamental human rights and each had assumed an obligation not to deprive individuals within its jurisdiction of those

rights. The Charter admitted no exceptions and there were no grounds of history, culture, economic condition or sovereign prerogative that excused the theft of human dignity.

5. While dictatorial regimes remained a major source of human rights violations around the world, a second source was intolerance in all its forms, where the violator was as likely to be an armed faction as a Government. With the conclusion of the cold war, sentiments of ethnic or national identity had re-emerged; when exploited by ambitious and ruthless leaders, as in the Balkans, Central Africa and the Caucasus, they had produced terrible bloodshed the main victims of which had been civilians, killed not for what they had done but simply for who they were. The sense of group identity called "nationalism" could permit a group's cultural legacy to be preserved or could unite its members in defence of a common good, but taken to extremes it could also become hatred of "the other" and lead to violence. Loyalty to the nation to which a person belonged did not justify the betrayal of universal values. That was a fundamental principle of the Charter of the United Nations and of civilization itself. The founders of the United Nations, like the founders of the United States, viewed the nation as an instrument of law, justice, liberty and tolerance, not of exclusion. After the pogroms of Stalin, the death camps of Hitler, the butchery in Rwanda and the massacre in Srebrenica, it was time for the world to understand that neither blood, nor language, nor history, nor national characteristics were as pure as the apostles of separatism would have it believe, and that what mattered most were not the small distinctions which divided people but the common humanity that bound them.

6. As the twenty-first century dawned, the principal task of the international community would be to cool the embers of ethnic conflict and establish models for easing fears and reconciling ambitions within a broader framework of support for human rights. To that end, it should support and continue the work of OSCE and other bodies in order to enhance respect for the rights of minorities, look for guidance to the new democracies, especially in central and eastern Europe, strengthen United Nations and regional peace-keeping capabilities and support the work of the International Criminal Tribunals for the prosecution of persons responsible for war crimes in Rwanda and the former Yugoslavia. Finally, the international community should encourage the parties to the General Framework Agreement for Peace in Bosnia and Herzegovina (Dayton) to live up to the letter and spirit of the Agreement, which included a core of new institutions and arrangements designed to safeguard the rights of all Bosnians, regardless of ethnicity.

7. The Universal Declaration of Human Rights drew upon the moral traditions of every great culture on Earth; the application of its provisions worldwide should thus be of concern to all countries. The Government of the United States therefore appealed to all Governments to work together, as the Charter of the United Nations said, "to promote social progress and better standards of life in larger freedom", to reject despotism and condemn intolerance, to support all those who laboured to reconcile enemies, promote justice and elevate the human spirit, to respect the dignity of their citizens and all others who came within their power and to devise a framework of law and humanity that would secure for future generations in the next century the peace so often lacking in the twentieth century.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE OCCUPIED ARAB TERRITORIES, INCLUDING PALESTINE (agenda item 4) (continued) (E/CN.4/1996/18-21, 108, 120)

THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION (agenda item 7) (continued) (E/CN.4/1996/26, 27)

8. Mr. TORELLA di ROMAGNANO (Italy), speaking on behalf of the European Union under agenda item 4, said that the following countries with links with the European Union had expressed the wish to be associated with his statement: Bulgaria, Cyprus, Czech Republic, Estonia, Hungary, Latvia, Malta, Poland, Romania, Slovakia. He welcomed the progress towards achieving peace in the Middle East which had taken the form of the redeployment by Israel of its military forces, a transfer of powers to the Palestinian Authority and the organization of Palestinian general elections on 20 January 1996. The European Union, which had played a primary role in the observer operations in connection with the elections, could not but be satisfied with their success. It now devolved on the Palestinian people and the Palestinian Authority, who could depend on support from the European Union, to make the most of that success in order to strengthen the rule of law and guarantee respect for human rights in the territories.

9. As had been reasserted at the Sharm-el-Sheikh summit, the European Union strongly condemned all acts of terrorism or violence, but stressed that the struggle against terrorism must be conducted with full respect for human rights. It considered that the human rights situation in the occupied territories continued to arouse some concern and should not be ignored.

10. The European Union took note of the Special Rapporteur's concerns regarding the terms of his mandate. Like him, it considered that work on establishing Israeli settlements should cease completely, and that the commitments made on both sides should be respected.

11. The European Union attached paramount importance to the forthcoming negotiations aimed at defining the final status of the occupied territories; where Jerusalem was concerned, until a solution was found, nothing should be done that might call in question the status quo. Until the matter was finally settled, the Union would continue to provide financial support for the efforts in progress; there was no need to remind participants that the European Union was the principal supplier of financial assistance to the Palestinian people.

12. As had been said on the occasion of the recent Euro-Mediterranean Ministerial Conference in Barcelona, peace in the Middle East must be fair and comprehensive, and considerable progress would need to be made in the Israeli-Syrian and Israeli-Lebanese sectors of the peace process. In that regard, the European Union recalled its commitment to Security Council resolution 425 (1978).

13. Mr. MEGHLAOUI (Algeria) considered it vital that the agreements reached in the context of the Middle East peace process should be implemented within the established deadline and in all good faith. In that region, as elsewhere, it was time for the international legitimacy to which the resolutions of the General Assembly and the Security Council referred to prevail. The

Palestinian people must recover its legitimate national rights and enjoy full independence within its own State, with Al-Quds al-Sharif as its capital. Welcoming the elections held in January, he expressed the hope that the international community would help the Palestinian people to rebuild its war-stricken country.

14. He shared nearly all conclusions and recommendations of the Special Rapporteur concerning the situation of human rights in the Palestinian territories occupied since 1967. The Commission must draw conclusions from Israel's persistent refusal to comply with the resolutions calling upon it to put an end to its many human rights violations, which had been well documented by the Special Rapporteur.

15. Turning to the question of the right to self-determination and independence enshrined in General Assembly resolution 1514 (XV), he recalled that the Saharan people had been living under occupation or in exile for more than 20 years. It was regrettable that the date for the holding of the referendum for self-determination provided for in the settlement plan of 20 August 1988 had been repeatedly postponed. In resolution 1042 (1996), the Security Council had now set that date at 31 May 1996. In order to facilitate the implementation of the settlement plan, his Government was in favour of direct discussions between the two parties to the conflict. It was prepared to give its full support to such an undertaking and hoped that Morocco and the Frente Popular para la Liberación de Saguia el-Hamra y de Río de Oro (Frente POLISARIO) would follow the way of dialogue. The Maghreb must be built on solid bases and in the interest of all its peoples.

16. Mr. HAUGESTAD (Norway) said that the peace process initiated in the Middle East had brought almost revolutionary changes to the region and had laid the foundations for self-determination and for the democratization of society, which were prerequisites for the enjoyment of human rights.

17. The peace process was currently threatened by acts of terror which created a climate of fear and insecurity. It was important that the mandate of the Special Rapporteur on the situation of human rights in the occupied territories should properly address the reality of the process. The mandate should cover both the self-governing and the occupied territories and should be carried out in close cooperation with the Palestinian and Israeli authorities. It should also be reviewed annually in order to take account of the rapidly changing circumstances.

18. An effective strategy to combat terrorism within the rule of law was called for. His Government believed that effective measures compatible with human rights and fundamental freedoms could be found. It fully subscribed to the conclusions of the International Summit of Peacemakers in Sharm-El-Sheikh and supported the Israeli Prime Minister, Mr. Peres, and the Palestinian President, Mr. Arafat, in their efforts to combat terrorism and bring the peace process to a successful conclusion.

19. Mr. BENJELLOUN TOUIMI (Observer for Morocco) welcomed the fact that both Palestinians and Israelis remained firmly committed to advancing the peace process in the Middle East despite the tragic events which had marked 1995 and the start of 1996. The international community must provide firm moral,

political and especially economic support to the parties which had taken a gamble on peace. The strengthening of the peace process should go hand in hand with scrupulous observance of human rights, and it was vital in that connection that the question of the Israeli settlements should be resolved, the practice of collective punishments abandoned, access to places of worship ensured and better treatment given to prisoners.

20. He was confident that Israelis and Palestinians would find an appropriate response to the questions which divided them and also hoped that the Syrian-Israeli and Lebanese-Israeli negotiations would achieve results which would be acceptable to all parties, on the basis of the relevant resolutions of the General Assembly and the Security Council, particularly Security Council resolution 425 (1978).

21. Following the comments made by the representative of Algeria on the situation in Western Sahara, he wished to point out that he had given a lengthy explanation in that regard to the Executive Committee of the Office of the High Commissioner for Refugees; he also hoped that the Algerian authorities would themselves set an example of the dialogue which they recommended to others.

22. Mr. TABIBI (World Islamic Call Society) recalled that the right to self-determination was one of the basic principles of modern international law, and regretted that it was still widely flouted, especially in the Islamic world. The situation in Chechnya, in Afghanistan, in Palestine, in Kashmir, in Bosnia and Herzegovina and in many other countries was known to all. Since justice was an essential part of peace-keeping, it would be appropriate for an international criminal tribunal to try the perpetrators of the atrocities to which the peoples of those countries were subjected.

23. The international community should be careful not to neglect any situation in which the right of peoples to self-determination was called in question. For example, it should not neglect the dramatic state of affairs in Afghanistan, which affected millions of people. It should spare no effort to keep the peace and ensure respect for the principles of international law.

24. Mrs. LAUWEREINS (France Libertés - Fondation Danielle Mitterrand) recalled that Indonesia had been occupying East Timor for the past 20 years and that for 20 years the list of human rights violations in that country had been growing: arbitrary arrests, torture, inhuman treatment, political trials, murder of civilians, massacres and disappearances. In other words, human rights and the right of peoples to self-determination had been flouted for 20 years, during which time Indonesia had totally disregarded the United Nations resolutions on the subject. The necessary steps should be taken to put an end to the violations in East Timor.

25. In view of the fact that Indonesia was not threatened and had no known real or potential enemies, her organization hoped that all States Members of the United Nations would make a solemn commitment to cease supplying arms to that country and that they would take into consideration the recent peaceful activities of the people of East Timor designed to draw international attention to their country. Her organization also requested that human rights organizations should be permitted access to the territory of East Timor, and

that a United Nations office should be set up in Dili, the capital. The Commission should urge its members to take in political refugees from East Timor, as Portugal had done. It was also essential for East Timor's citizens to be involved in all discussions concerning their future, that Monsignor Belo should be present at those negotiations and that Mr. Xanana Gusmao should be released in order to take part in them.

26. Her organization denounced the blocking of the referendum process in Western Sahara as a result of the attitude of the Moroccan Government, which continued to transfer Moroccan populations to the territories occupied in order to increase the number of pro-Government voters. There was a lack of transparency in the work of the Identification Commission and the identification process was the main hindrance to the holding of the referendum. It was for that reason that the Secretary-General of the United Nations, in his most recent report (S/1996/43), had stressed the importance of transparency in the work of identification and the importance of the negotiations between Western Sahara and Morocco in unblocking the situation and arriving at an agreement. He had also encouraged States and institutions which could do so to take initiatives to bring the two parties to the negotiating table. The Security Council, for its part, in resolution 1042 (1996), had appealed for dialogue between the Frente POLISARIO and the Government of Morocco in order to facilitate the implementation of the settlement plan and had extended the mandate of MINURSO until 31 May 1996. In order to avoid a resumption of the armed conflict, it was vital to bring the two parties face to face in order to help them to overcome their differences on the issue of identification and avoid the withdrawal of MINURSO, whose presence should inhibit human rights violations.

27. Her organization therefore called upon the Commission on Human Rights to do everything in its power to further the settlement of the conflict, bearing in mind the right of the Saharan people to self-determination.

28. Mr. FELNER (International Human Rights Law Group) stated that he was the Deputy Director of B'Tselem, the leading Israeli NGO monitoring the human rights situation in the occupied territories. That situation had seriously deteriorated since the beginning of the peace process in 1993 on account of the numerous violations of human rights by Israel, which were summarized in the report of the Special Rapporteur (E/CN.4/1996/18). Of particular concern was the recent drafting of a bill which would provide legal sanction for the torture and ill-treatment used by Israel's security agents.

29. Israel claimed that such measures were necessary to ensure the security of its citizens, increasingly threatened by recent attacks. However, security considerations could not justify the stringent punitive measures recently taken by Israel, such as detention of the family members of the perpetrators of attacks, the demolition of their homes, curfews, closure of towns and villages and the closing-down of educational institutions. None of those measures took account of the basic legal tenet of individual criminal responsibility which Israel respected when Israelis committed crimes against Palestinian citizens but which it did not hesitate to ignore in the case of Palestinians. Moreover, there was no evidence that those measures were effective as a deterrent of future attacks on the Israeli population; on the

contrary, they were liable to drive increasingly desperate Palestinians into the ranks of extremist organizations such as Hamas and the Islamic Jihad.

30. The other argument put forward to justify human rights violations in the occupied territories was that during the interim period in the peace process human rights were inevitably sacrificed for the sake of peace. For the victims of those violations, however, only the current painful reality counted, and could not be modified by the prospect of future peace. Peace based on violations of human rights could only be fragile and vulnerable.

31. His organization also wished to point out that human rights violations were also perpetrated by the Palestinian Authority in the areas under its control - in particular, arbitrary arrests, detention without charge or trial, torture during interrogations and unfair trials - and denounced the attempts of the Palestinian Authority to intimidate and silence its critics, particularly journalists.

32. It was imperative that the international community should ensure that the protection of the human rights of the inhabitants of the occupied territories became an integral part of the peace process. It was time to recognize that security could be protected without violating basic human rights and that equitable coexistence between Israelis and Palestinians based on the mutual respect of fundamental human rights was the only basis for a just and lasting peace.

33. Mr. DIENG (International Commission of Jurists) welcomed the fact that the Special Rapporteur on the situation of human rights in the occupied territories had been able to visit the Gaza Strip and discuss the human rights situation with Palestinian officials. Israeli cooperation would also, however, have been necessary, and he regretted its absence. His organization was aware of the problems to which the atrocious suicide bomb attacks in Israel in recent months had given rise - attacks which it had severely condemned - but it was persuaded that a lasting peace in the region required human rights to be preserved. In that connection, it noted with concern the restrictive measures which the Israeli Government had decided to apply to the Palestinian community in response to those attacks. Those measures directly impinged on the right to work and the freedom of movement of the Palestinians, and caused them serious economic and personal hardship, in some instances even putting their lives in jeopardy. His organization reiterated the concerns expressed about the use of torture and the elaboration of an Israeli bill that would legalize it. It stressed once again that the measures taken by Israel must be consistent with fundamental human rights and humanitarian law.

34. Another area of concern was the administration of justice in the autonomous areas under the Palestinian Authority. Several persons had been detained without trial and some had died in custody. Special courts which conducted trials in camera had been established. Most of those measures had been taken in response to pressure from Israel and even the United States of America. The inadequate experience of the Palestinian Authority in the conduct of public affairs made the situation worse. However, the Commission appreciated its willingness to collaborate with the Special Rapporteur and endorsed the latter's recommendation that his mandate should be expanded to deal with the new realities (E/CN.4/1996/18, para. 40). The Palestinian

Authority could certainly benefit from the valuable experience of the local NGOs, which had helped the Palestinians in the Gaza Strip and the West Bank to survive throughout the period of occupation.

35. Mr. TEITELBAUM (American Association of Jurists) said that he would like first to point out that the decision taken by the Commission concerning the organization of the debate drastically curtailed NGO participation; he hoped that that most regrettable decision would be rescinded.

36. With reference to the issues under consideration, his Association noted that the referendum on self-determination in Western Sahara continued to be deferred on account of Morocco's bad faith in applying the terms of the settlement plan by endeavouring to have tens of thousands of Moroccan settlers included in the electorate and by its constant acts of repression against the advocates of self-determination. It noted the inadequacy of infrastructure in the field and the absence of a firm stand on the part of the United Nations authorities taking part in the process vis-à-vis the delaying tactics employed by Morocco to obstruct the progress of the operations. It suggested that the Commission on Human Rights should adopt a more emphatic resolution than it had in 1995, stressing the responsibilities of the Moroccan Government, the logistical shortcomings of MINURSO and the excessive indulgence of the Secretary-General towards the activities of the Moroccan authorities.

37. Another matter on which an energetic reaction was required from the Commission was the question of Chechnya. In the face of the neo-colonialist aggression against the Chechen people, the great Powers had remained silent in the hope that the period of "pacification" would not last long. Before the situation deteriorated into genocide, the Commission must unambiguously condemn the Russian intervention in Chechnya and call upon Russia to withdraw immediately the troops occupying Chechen territory.

38. The Commission should also condemn the International Monetary Fund, whose loans to Russia were helping to finance that war of extermination. The indulgence shown by the Bretton Woods institutions towards colonialist Governments which violated human rights was in fact nothing new. The World Bank had continued to negotiate with the racist Government of South Africa and the colonialist Government of Portugal in defiance of the resolutions of the United Nations General Assembly which in 1965 and 1967 had called for economic measures against those two countries. The institutions in question would continue to be incapable of playing a positive role in the area of human rights, and in particular the right to development, as long as they failed to act like true specialized agencies of the United Nations and failed to bring their policies into line with the principles of the international human rights instruments.

39. Mr. AHMAD (World Muslim Congress) said that he would like to begin by referring to the problem of Chechnya, colonized by Russia in the nineteenth century. The Chechens, an autonomous people culturally different from the Russians, who had always treated them with utter contempt, were engaged in a just struggle for self-determination but were being bloodily repressed. The only reason for Russia's desire to keep the region under its colonial

domination was the existence of oil and natural gas in the Caucasus. Under the Charter of the United Nations, however, the Chechens had an indisputable right to self-determination.

40. Another case that was disturbing in terms of human rights was that of Kosovo; the Belgrade Government had abrogated its autonomous status, depriving the 90 per cent of the population who were of Albanian origin of their civil, economic and political rights. That population, too, claimed the right of self-determination.

41. Lastly, there was the problem of Kashmir, which had been under Indian domination for 49 years. The Security Council, which had considered the problem in detail, had expressly stated that the State of Jammu and Kashmir was not part of India and that the question could only be settled by impartial elections under United Nations auspices. Both Pakistan and India had accepted that solution, which showed that India recognized officially that Kashmir was not Indian territory. That had not prevented it, however, from carrying out mock elections, setting up a succession of puppet governments in Kashmir and using mercenaries to endeavour to discredit the genuine liberation movement. The so-called "accession" of Kashmir to India in 1947 was fictitious. In the absence of true prior consultation of the people of Kashmir, any agreement of that type must be regarded as null and void since it contradicted the principle of self-determination.

42. In the light of those three cases, it should once again be emphasized that the right of peoples to self-determination was part of jus cogens, which was binding on all States. Under article 19 of the draft convention on State responsibility which the International Law Commission was preparing, any grave breach of that right would be regarded as an international crime. The General Assembly, in its resolution 50/139 of 21 December 1995, had requested the Commission on Human Rights to continue to give special attention to the violation of the right to self-determination, and the Commission should regard it as its duty to carry out that mission by helping the peoples concerned in their just struggle.

43. The CHAIRMAN invited those delegations which wished to do so to exercise their right of reply.

44. Mr. ZHANG Yishan (China) said he regretted the fact that the Permanent Representative of the United States of America to the United Nations should have exploited her invitation to address the Commission on Human Rights in order to make accusations against sovereign States. That was something the United States was in the habit of doing and it frequently made attacks of that kind in the name of human rights and democracy. The twenty-first century could well see the end of the hegemony of that super-Power, however, which should learn, before it was too late, to take account of the new international situation.

45. Mrs. HERNANDEZ QUESADA (Cuba) said that, before posing as a vigilante, the United States should examine itself self-critically. By starving the people of Cuba, was it not violating a fundamental human right, the right to life? The Permanent Representative of the United States to the United Nations had been invited by the Commission to speak on human rights, not to make political accusations.

46. Mrs. FERRARO (United States of America) said she was happy to note that the representatives of China and Cuba had listened attentively to the Permanent Representative's statement. They must also have heard, however, that the principles of the Charter of the United Nations applied to everyone, universally and without exception. In that respect, she could assure the representative of China that his country would not be forgotten when agenda item 10 was considered.

47. Mr. PANG Sen (China) said he found it paradoxical that the United States should pose as a great champion of the law when it did not even respect the Commission and engaged in acts contrary to international law such as seizing foreign representatives on their own territory.

48. Mr. SALMAN (Observer for Iraq) said that the United States, which set itself up as a judge of human rights issues, was the first to violate those rights. By putting pressure on the United Nations for the past five years to maintain the blockade against Iraq, thus depriving the entire population of food and medicine, it was violating one of the most fundamental human rights, the right to life.

The meeting rose at 5 p.m.

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COMMISSION ON HUMAN RIGHTS

Fifty-second session

SUMMARY RECORD OF THE 6th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 21 March 1996, at 10 a.m.

Chairman: Mr. VERGNE SABOIA (Brazil)

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THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION (continued)

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GE.96-11795 (E)

The meeting was called to order at 10.10 a.m.

STATEMENT BY THE MINISTER OF JUSTICE OF PERU

1. Mr. HERMOZA-MOYA (Peru) said that, as it approached the end of a century marked by tumultuous changes, the international community was aware of the importance of guaranteeing respect for human rights in all spheres. His country had assumed fully its responsibilities in that regard and was working, at both the structural and institutional levels, to consolidate the progress already achieved and to strengthen the promotion and protection of human rights. It was, at the same time, endeavouring to stabilize the economy and continue the process of national reconciliation. With increased stability, it was able to turn its attention to other urgent social problems.

2. The pacification process had, in addition to the inevitable repressive measures, given rise to a series of measures in the economic, political and legal spheres. Two basic laws had been promulgated: the law of repentance, under which pardons had been granted to more than 5,000 convicted terrorists, and the amnesty law. That pacification process should not be viewed as a form of impunity. His Government was aware that its anti-terrorist and pro-democracy policies must be based on the rule of law, and that all illegal acts were subject to penalty. In fact, the conduct of many army officers had been punished. It was also reviewing a number of cases in which citizens might have been unjustly convicted.

3. While great progress had been made in his country towards eliminating terrorism, the problem still existed. In response to the recent assassination by the Sendero Luminoso of the valiant popular leader Pascuala Rosado, the Government had extended the application of the law regarding "faceless" judges until October 1996.

4. Moving away from the legal framework which had been necessary during the period of national emergency, his Government was enacting new laws which would help to ensure full respect for human rights and individual dignity, the supreme aim of State and society. To that end, a special commission of Congress would be nominating candidates for the bench of the Constitutional Court and for the office of Ombudsman, for which elections would be held in the near future.

5. Education was crucial to ensuring respect for human rights. As part of the United Nations Decade for Human Rights Education, his Government was carrying out a project designed to train secondary school teachers in human rights education. Human rights training courses were also being provided for the police and the military. His Government had requested the assistance of the Centre for Human Rights for those efforts.

6. The interdependence of democracy, development and human rights was a basic principle, especially for countries, like his own, with structural problems. He was proud to note that, since 1980, Peru had held four presidential elections, six municipal elections, five legislative elections and a constitutional referendum, all of which had been conducted in a

transparent way. His Government was committed to creating the conditions in which democracy could flourish and become a reality for each and every citizen.

7. Development was a central concern of his Government, which was launching a full-scale campaign against poverty. Of the current national budget, 40 per cent had been earmarked for social spending, including education, health, employment and basic infrastructural services.

8. His delegation wished to stress the importance of the right to development and would support any draft resolution of the Commission on the subject. If the problem of human rights could be a threat to international security, it was not unconnected with a structural problem of the developing countries which required the assistance of the international community. His Government had long stressed that civil and political rights and economic, social and cultural rights merited equal attention, with due regard for the basic principles of universality, impartiality and non-selectivity.

9. Women accounted for somewhat more than half the population of Peru and there was increasing recognition that women, who had played an important role during the crisis period, had much to contribute to promoting social development and national reconciliation. Women could be influential in one area in particular: most of the families which had been displaced as a result of terrorism were headed by females. His Government was currently implementing a national programme for the advancement of women.

10. The Convention on the Rights of the Child, ratified by his country in 1990, and the Children and Youth Code, in force since 1993, were the basic legal instruments used by his Government to protect children and promote their rights. It had established a division for the protection of children and adolescents and intended to set up a larger institutional structure. It endorsed the efforts of the working groups on children in armed conflict and on child prostitution and child pornography.

11. In 1995, Peru had been visited by the Representative of the Secretary-General on internally displaced persons. Terrorism had caused the exodus of many rural families to urban centres, giving rise to widespread changes in social and institutional structures. Between 1980 and 1992, approximately 600,000 persons had been displaced. Thus far, the organized return of more than 25,000 families had been carried out by the Government, with the welcome cooperation of various international organizations. Another 135,000 individuals had returned of their own accord. Nevertheless, the problem persisted and was still a potential threat to international security.

12. The Constitution of Peru recognized the legal existence of indigenous populations together with various rights including the right to a cultural and ethnic identity and the right to make autonomous administrative and economic decisions. Leaders of indigenous and peasant communities had the legal right to exercise judicial functions on their territory in accordance with customary law. Peru had the greatest cultural diversity in Latin America. His Government was working with representatives of the indigenous populations to collect the wealth of information existing on the subject and propose actions

to promote the welfare of such populations. It was also participating actively in the various international forums and working groups on the subject.

13. The international community needed to adopt a realistic and practicable declaration on indigenous people, which would be acceptable to Governments and indigenous populations alike and would lead to practical solutions. To that end, the national committees established as part of the International Decade of the World's Indigenous People should, in cooperation with Governments, adopt some specific measures to that end. It would also be useful if the agenda of the Commission were to include a separate item entitled "indigenous matters".

14. The question of human rights required new and innovative approaches which would lead to concrete results. Rhetoric and demagoguery must be left aside. The keyword must be "cooperation" rather than "inquisition". The High Commissioner for Human Rights and the Centre for Human Rights had important roles to play in such universal cooperation. All Governments should comply with their international treaty and reporting obligations. His own Government was committed to such action as demonstrated by, inter alia, its cooperation with the various working groups, special rapporteurs and representatives of the United Nations system.

STATEMENT BY THE MINISTER OF JUSTICE OF UKRAINE

15. Mr. HOLOVATY (Ukraine) said that the rebirth of the independent Ukrainian State was generally acknowledged as one of the key factors ensuring stability in Europe. His country's new role stemmed from several crucial factors in addition to its size and population, namely, that it was building its statehood peacefully, was endeavouring to achieve the status of a non-nuclear and non-aligned State; and was introducing national legislation aimed at building a democratic civil society and promoting human rights and fundamental freedoms.

16. Following its admission to the Council of Europe, Ukraine had agreed to adopt, within one year of its accession, a new constitution, a new civil code and civil procedural code, and a new criminal code and criminal procedural code. It had also agreed to ratify the European Convention on Human Rights and the relevant protocols; to reform the procuracy, judiciary and penitentiary system and implement measures to resolve disputes among conflicting churches; to sign within one year and to ratify within three years from the time of accession, Protocol No. 6 of the European Convention on Human Rights on the abolition of the death penalty in time of peace and, with immediate effect from the day of accession, to introduce a moratorium on executions.

17. His own Ministry was responsible for carrying out those tasks, had prepared a conceptual document defining State policy for the protection of human rights and was engaged in the preparatory work for the signature and ratification of a number of European conventions. An intergovernmental commission had been established to draft proposals aimed at introducing the

legal norms and standards of the Council of Europe into Ukrainian legislation and an expert group had been formed to prepare recommendations with regard to the adoption of legislation to protect the rights of indigenous people in the country.

18. In contrast to the legislative system inherited from the former Soviet Union, a State based on the rule of law and democracy, which protected and ensured the human rights and fundamental freedoms of every citizen, was thus being built in his country. At the same time, his Government was fully aware that the process of forming a civil society required simultaneous efforts by State institutions and by society itself through the increased involvement of citizens in the process and in the defence of their rights. Ukraine's State policy in the sphere of the protection of human rights was strictly in line with recognized international principles, while the specific features of the country's historical, cultural and economic development were also taken into account.

19. Policies in the sphere of inter-ethnic relations entailed elimination of the remaining consequences of the previous Soviet policy of forcible assimilation, the strengthening of Ukrainian statehood and national identity, the protection of equal rights for all citizens, the provision of State assistance for the return of members of the ethnic groups forcibly deported by the former totalitarian regime, and inter-State cooperation to secure the rights of Ukrainians living abroad. While guaranteeing the rights of persons belonging to national minorities and ensuring the freedom of development for all national cultures as well as the return of deportees, it was stressed that each ethnic group residing in Ukraine must respect the rights of other ethnic communities and be aware of its responsibility for the stability and territorial integrity of the State.

20. While advocating respect for human rights in the domain of inter-ethnic relations and assuming the relevant international commitments, his Government strongly rejected any arbitrary interpretation of the right to self-determination which ignored other generally recognized principles and standards of international law. Legislation in that field should be further developed to assist the world community to combat separatism, a task in which the Commission had an active role to play.

21. The tragic events in the territory of the former Yugoslavia, like those in Rwanda and Burundi, evidenced the critical need to pursue preventive policies with respect to inter-ethnic problems. The United Nations should devote more attention to monitoring to consultations and to providing advisory, technical, financial and economic support to individual countries in that area, as well as to cooperating with regional organizations to that end.

22. On the eve of the twenty-first century, joint international efforts were required to cope with the many challenges of ecological disasters, terrorism, regional conflicts and economic and social crises, in which respect the role of the United Nations was vital. Ukraine was prepared to play its part in dealing with those problems.

STATEMENT BY THE SECRETARY-GENERAL FOR FOREIGN AFFAIRS OF AUSTRIA

23. Mr. ROHAN (Austria) said that, despite the Commission's impressive record in the field of standard-setting, monitoring and reporting and the promotion of human rights, and the admirable work of the High Commissioner and Centre for Human Rights, human rights were still being violated daily in all parts of the world. A major reason for that situation was the lack of political will on the part of the Governments fully to implement their human rights obligations and put an end to human rights violations. Living up to those obligations was, however, indispensable if national and international systems were to function well. He thus urged all Governments to observe all their obligations for the protection and promotion of human rights and to cooperate fully with the international community's control mechanisms, such as the special rapporteurs, working groups and experts, who must be guaranteed independent and unfettered mandates if they were to carry out their tasks. In that regard, he expected clear and unequivocal decisions from the current session of the Commission.

24. The approach adopted by the Vienna Declaration and Programme of Action of the intrinsic relationship between human rights, development and democracy, as well as peace and security, had been further strengthened at subsequent United Nations world conferences and had resulted in the widely shared conviction that human rights could not be divorced from efforts to achieve international peace and security and sustainable development. In that connection, he expressed great appreciation of the crucial role played by the High Commissioner for Human Rights with respect to the integration of human rights into the work of the international system and urged increased support for the High Commissioner's work, especially in the form of additional resources from the United Nations budget.

25. Such an integrated approach required full utilization of the whole range of measures available to the international community from the prevention of human rights violations - through the development of effective early-warning and early-reaction systems - to monitoring, reporting and responding effectively to violations; and providing adequate assistance for building efficient human rights infrastructures at the national and local levels.

26. The growing number of peace-keeping and peacemaking missions undertaken by the United Nations or regional organizations would put human rights diplomacy to a severe test, and the full and systematic integration of human rights into the activities of those missions was crucial to their long-term success.

27. His Government had organized recently a round-table conference on human rights in Bosnia and Herzegovina because of its firm conviction that progress in the field of human rights constituted a precondition for the full implementation of the Dayton Peace Agreement. The participants had taken the view that it was only through the intense efforts of all actors in Bosnia and Herzegovina itself, combined with assistance from the international community, that the human rights violations committed during the conflict in the former Yugoslavia would be overcome. The clear commitment by the parties to respect human rights, together with appropriate action on the crimes of the past, constituted the foundation for international assistance and support.

28. In that regard, the continued and close involvement of the Commission was of considerable importance. The establishment of a Human Rights Coordination Centre at Sarajevo should be a decisive step towards ensuring close coordination of all organizations and agencies involved, one of the priorities identified at the round-table conference which had come up with a range of detailed and concrete recommendations and conclusions that should allow all participants to ensure the appropriate integration of human rights into the overall effort of establishing durable peace, a climate of trust and confidence and, eventually, a new human rights culture in Bosnia and Herzegovina and in the region as a whole.

29. The protection of human rights was a cornerstone of his Government's foreign policy. Its long-standing commitment to human rights was reflected not only in its active contributions to the work of international organizations but also in its continuous efforts to protect the human rights of all people in Austria as well. In that connection, Austria's domestic situation was open to scrutiny by international and non-governmental organizations, the United Nations system and its treaty bodies and the system elaborated within the framework of the Council of Europe. Moreover, membership of the European Union added a new dimension to the country's human rights-related activities.

30. His delegation was particularly interested in ensuring that thorough preparations were made for the fiftieth anniversary of the adoption of the Universal Declaration of Human Rights. On that occasion, a five-year review of the implementation of the Vienna Declaration and Programme of Action would have to be undertaken and his delegation intended to submit a draft resolution on the subject.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE OCCUPIED ARAB TERRITORIES, INCLUDING PALESTINE (agenda item 4) (E/CN.4/1996/18-21, 108 and 120) (continued)

THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION (agenda item 7) (E/CN.4/1996/26 and 27) (continued)

31. Mrs. FERRARO (United States of America) said that, in the Middle East, hope and despair still battled with each other daily and the new world of peace and reconciliation was being tested yet again, although the seemingly impossible had come true and peace between Arabs and Israelis had blossomed over the past four years.

32. Joining Egypt, the Palestinians and Jordan had signed peace agreements with Israel, leading to the establishment of a Palestinian self-government authority in the West Bank and the Gaza Strip for a transitional period not exceeding five years and for a permanent settlement based upon the relevant Security Council resolutions to the departure of Israeli forces from the major Palestinian cities and surrounding villages, to elections for a Palestinian Council and the head of its executive authority, to the development of an impressive array of civil and political institutions and to the development of a host of new relationships between Israel and Jordan under which vital issues

such as water usage were the subject of frequent consultations between the two countries. Many other Arab States were preparing for the rapidly evolving Middle-East regional market, which promised economic benefits to almost 100 million people.

33. Everyone was aware of the importance her country attached to the peace and reconciliation process. No nation had worked harder to help Arabs and Israelis overcome their past antipathies and to secure a just and lasting peace for all the peoples of the Middle East.

34. It had taken great courage to break the bonds of war and sever the cords of suspicion which had tied the people of the area to almost 50 years of violence, hate and retribution. Many had paid for their courage with their lives, but peace had many heroes, including both visionary leaders and ordinary people. No assassin or suicide bomber could strike it down.

35. Yet there were some persons with twisted minds who were determined to drive history backward, who throve on other people's suffering and sought to revive their flagging fortunes by bombing buses and inflicting terror, all in a cause said to be higher than that of peace. That was absolute nonsense; the acts concerned were acts of desperation, arrogance and cowardice. However, the terrorists from Hamas and Islamic Jihad had misjudged their times and their own community. The people they purported to represent had put their faith in peace, not terror, and hope had brought about fundamental changes in the Middle East and greater progress towards a just peace than war could ever do.

36. It was thus no surprise that, at the Sharm-el-Sheik summit of the peacemakers, Arabs and Israelis alike had condemned the bombings in Israel as cowardly acts. The world had made it clear that the battle between Arabs and Israelis was a thing of the past. Unfortunately, those who refused to accept the course of history sought another battlefield, pitting terror against human rights and the rule of law. They would not prevail. A handful of extremists could not be allowed to scuttle the peace process. It was time for the Commission to speak out clearly, since the enemies of the Middle East peace process were the enemies of human rights.

37. In 1995, the Commission had unanimously approved a positive Middle East resolution. Her delegation was sponsoring another such resolution in 1996. By approving it unanimously, the Commission would send the important message that it recognized the direct relationship between the peace process and the improvement of human rights in Gaza and the West Bank.

38. Her delegation welcomed the Special Rapporteur's proposal that his mandate be reviewed and revised. It also believed that the time had come to end the unhelpful rhetoric that had all too often characterized the Commission in the past. In fact, agenda item 4 had outlived its usefulness and should be discontinued; any discussion of human rights problems in the Middle East should henceforth be conducted under agenda item 10. However, since peace still had its enemies, the Commission should demonstrate that every delegation stood firmly and unequivocally on the side of peace and human rights in that area.

39. Mr. PARSHIKOV (Russian Federation) said that the hope that peace might one day be established in the Middle East had assumed concrete form as the result of the agreements between Israel and the Palestine Liberation Organization (PLO) and the elections in the West Bank and Gaza. That peace was, however, being threatened by a wave of terrorism and the international community must not allow itself to be dictated to by small groups of extremist killers. Terrorist activities everywhere were directed against peace, concord and democracy and all countries must unite their efforts to eradicate such threats. In that connection, his delegation wished to pay tribute to the former Prime Minister of Israel, Isaac Rabin, who had sacrificed his life in the cause of peace. The Russian Federation resolutely condemned the monstrous terrorist acts in Israel, which had become the major obstacle to peace in the Middle East.

40. In order to bring about peace, several basic conditions were needed. First, Israel must be reassured that its efforts to establish peace enjoyed both the moral and practical support of the international community and that the only road ahead was to continue its search for a peaceful settlement. Secondly, maximum support must be given to the Palestinian leadership, under Yasser Arafat, which categorically rejected terrorism. Thirdly, the trend towards a peaceful settlement between Israel and Syria should be encouraged. Fourthly, the peace talks must be combined with an uncompromising fight against terrorism.

41. To assist the Middle East peace process, the Commission must abandon old stereotypes and adopt resolutions and decisions aimed at promoting compromise and dialogue rather than confrontation. In that connection, his delegation hoped that a suitable draft resolution on the Middle East peace process would be adopted by consensus.

42. People in his country were well aware of the suffering caused by terrorism as a result of the activities of the groups of bandits operating there and in some other countries of the Commonwealth of Independent States. Whole towns were being terrorized by the criminal forces of Dudaev and acts of banditry were accompanied by brigandage, violence and undisguised looting. The organizers of terrorist acts against the peaceful population sometimes called themselves "freedom fighters" but they brought only grief, death and enslavement by fear. Opposition to terrorism should be universal, and double standards were inadmissible. A common evil could be overcome only by joint efforts.

43. There was perhaps no topic more complicated and controversial than the right of peoples to self-determination. One thing, however, was clear: in the current era of instability, change and conflict, an absolute right to self-determination, in isolation from other rights and freedoms, or the emasculation of its essence to the point of primitive separatism were inadmissible. Otherwise the world could expect not universal peace, security and economic well-being but an endless and bloody chaos. Consequently, the principle that the right to self-determination should not be interpreted as allowing or encouraging any activities violating or undermining the territorial integrity or political unity of independent sovereign States was of great significance.

44. The ever-increasing trampling of basic rights and freedoms in the name of self-determination was a source of particular concern. Once again, statements such as "the end justifies the means" or "the interest of the nation is paramount" were being heard. As a result, many thousands of persons were being turned into pariahs without rights. It was doubtful whether that kind of "self-determination" could be called a right.

45. The right to self-determination was a right of peoples. The encroachment upon that right by individuals or small groups was thus inadmissible since it led to autocracy, arbitrariness and lawlessness. As a result, the concept of self-determination was being exploited for the purposes of aggressive separatism, which invariably ended in tragedy, the denial of rights and freedoms, death and suffering. Separatism was unacceptable not only in the context of protecting the territorial integrity of States but also from the standpoint of promoting human rights and freedoms.

46. Federalism was a very important precondition for the free development of a multinational society, as were the separation of powers, the responsibility of the Government to society, and regular, free and democratic elections. The Russian Federation had embarked upon the creation of a genuinely federal State to reflect the rich diversity of its cultures and conditions while preserving its territorial unity. Federal structures had already been put into place by the 1993 Constitution. The next step was to develop local self-government on a sound financial basis.

47. Self-determination was inseparable from the right of every citizen to take part in genuine, periodic and fair elections. The people of the Russian Federation would shortly be doing so when they elected the country's next President. Self-determination entailed the acceptance of the democratic process, the defence and encouragement of human rights, the supremacy of law and freedom of expression and the rejection of violence, separatism and terrorism.

48. Certain previous speakers had made critical comments regarding the events in Chechnya. While his delegation was not afraid to discuss the human rights situation in Chechnya, it would not do so in the context of the right to self-determination. The Russian Federation had been, was, and would continue to be united, so any such discussion would be unproductive.

49. Mr. KHURSHID (India) said that self-determination had become one of the most politicized concepts on the Commission's agenda and the time had come to hold a searching and informed debate on the subject. Colonialism had been rolled back in the 1950s and 1960s, most peoples had achieved independence, and the questions that currently arose were whether the concept of self-determination was still relevant, what the residual attributes of the right were within sovereign nations, particularly with regard to the rights of minorities, and what steps were essential to ensure the enjoyment of all human rights by all segments of the population in pluralistic and multicultural societies.

50. Comprehensive studies of those issues had been made by Mr. Asbjørn Eide, Chairman of the Sub-Commission's Working Group on Minorities, who had concluded that the right to self-determination in the case of a sovereign

State implied the right of the aggregate collectivity of the several ethnic, religious and linguistic groups composing its population to govern themselves. In that context, the right was not a matter of achieving statehood, which already existed, and did not represent any challenge to the territorial integrity of the State. It did, however, involve the right of all the people to govern themselves through a representative Government, freely elected through the participation of all groups in society.

51. Mr. Eide's observations had been endorsed in General Recommendation XXI (48) adopted by the Committee on the Elimination of Racial Discrimination (CERD) which stated that, externally, self-determination implied that all peoples had the right to determine freely their political status and their place in the international community based upon the principle of equal rights and, internally, meant the right of all peoples to pursue freely their economic, social and cultural development without outside interference. It also involved the right of every citizen to take part in the conduct of public affairs at all levels, as a consequence of which Governments had to represent the entire population without distinction as to race, religion, colour, descent, or national or ethnic origin.

52. The right to self-determination thus clearly implied that all segments of society had the right to participate in all walks of national life and national decision-making through representative, democratic institutions. As CERD put it, Governments should be sensitive towards the rights of persons of various groups in society to lead lives of dignity, preserve their culture, share equitably in the fruits of national growth and play their part in the government of the country. Governments should also consider, within their respective constitutional frameworks, vesting persons or ethnic or linguistic groups of their citizens with the right to engage in activities particularly relevant to the preservation of their identity.

53. His Government believed that the achievement of the right to self-determination in respect of colonial or alien rule must necessarily be followed by democracy, tolerance, non-violence and respect for pluralism. Pluralistic societies could flourish only on the basis of the principle of equality. As Mr. Eide had put it, neither majority nor minorities should be entitled to assert their identity in ways which denied the possibility of others doing the same. Integration should be developed on the basis of equality and non-discrimination, with all groups contributing their own values and cultures to shape the common domain where their members interacted.

54. Unfortunately, there were still conflicts in various parts of the world, some of which had been attributed to ethnic causes without necessarily being ethnic in origin, and others to religious reasons without necessarily being based on religion. Many of them reflected situations where people perceived that their legitimate rights to develop or their cultural identity were being denied and their aspirations were not being fully met. The only viable options were dialogue and a political solution within the framework of a democratic polity.

55. Other such conflicts stemmed from external support designed to undermine the social fabric of pluralistic and multicultural States and impose external cultural hegemony or even make territorial gains. Divisions in pluralistic

States were frequently exploited by "conflict entrepreneurs", often with external support, and manifested themselves in violence, extremism, militancy and ethnic cleansing. Such "conflict entrepreneurs" must not be encouraged.

56. The politicization of the issue of self-determination and the use of the term for the advancement of political and bilateral agendas by some countries or groups of countries was deplorable and had nothing to do with the promotion of human rights in general. Some such countries openly sought territorial aggrandizement or cultural control, preached narrow and intolerant ideologies, funded religious extremism and manipulated ethnic and religious differences to provoke human rights atrocities. Still others nurtured, sustained and justified terrorism and the use of mercenaries as means of achieving their political ends. It was noteworthy that the countries in question frequently failed to extend the right concerned to their own citizens.

57. Politicization of the right to self-determination undermined the very concepts of democracy, tolerance and pluralism which were the best guarantee for the enjoyment of that right. It promoted secessionism and fragmentation, thereby jeopardizing regional and global stability, peace, security and economic well-being. Opportunistic resort to it might serve some propaganda purposes or attract media publicity, but it certainly did not promote the interests of peoples.

58. His delegation believed that the international community should continue to support the concept of the self-determination of peoples as expressed through pluralism, democracy and the enjoyment of human rights by all peoples on the basis of equality and non-discrimination. All Member States must ensure the unfettered enjoyment of those rights by their own peoples. At the same time, the misuse of self-determination for political, territorial or bilateral ends would have to be checked.

59. Mr. CABALLERO RODRIGUEZ (Cuba) said that the Commission had always recognized the inalienable rights of the Palestinian people, rejected the Israeli occupation of Arab territories and condemned the gross and flagrant violations of human rights by the occupying Power. The recent agreements between Israel and the PLO, therefore, constituted important landmarks in the overall negotiating process.

60. Nevertheless, no lasting solution had been found and tension and violence in the Middle East had increased. The tension was being aggravated by the many obstacles to the implementation of the agreements reached and by the flagrant violations of the human rights of the Arab and Palestinian populations in the occupied territories. The Israeli authorities were continuing their repressive practices, which were intensified by the sealing-off of the Gaza Strip and the West Bank.

61. Any just, lasting and overall solution of the conflict must include the total withdrawal of Israel from the occupied Arab territories. His Government hoped that peace would soon arrive in the Middle East and that a just, true and lasting solution would be found involving all States in the region and that the Palestinian people would be able to exercise its inalienable rights, including the right to its own fully independent State. The international

community should provide the financial and human resources required to solve the enormous problems that had been accumulated during the years of occupation and pillage.

62. The United Nations itself was built upon the right of every State fully to exercise its national sovereignty and the right of every people to self-determination, free from outside interference. Those principles were still in force, but concepts such as "limited sovereignty" and "the right of intervention" were currently being promulgated and his Government was deeply concerned at attempts to alter the interpretation of self-determination in ways that did not conform to the Charter, on the grounds that the concept had been superseded by the progress achieved. The struggle against colonial or foreign occupation was still valid, however, given the threat to national sovereignty by outside models that claimed to be universal archetypes. For Cuba, the challenge of preserving peace entailed respect for the territorial integrity and cultural and political diversity of nations, as well as their capacity to develop and give their peoples a decent way of life. His Government would also continue to claim the return of the United States naval base at Guantánamo and an end to the hostile policy pursued against its people for over 36 years by its powerful neighbour.

63. He commended the valuable report (E/CN.4/1996/27) by the Special Rapporteur on the use of mercenaries as a means of violating human rights and of impeding the exercise of the right of peoples to self-determination, which had shed much light on those harmful practices. The Special Rapporteur should be given an opportunity to submit further reports on the contemporary use of mercenaries, particularly in situations in which such unlawful activities were undertaken by persons acting against their own country in the service of a foreign Power.

64. Mr. SUNG (Malaysia), having commended the work of the Special Rapporteur on the situation of human rights in the occupied Palestinian territories despite the regrettable refusal of the Israeli authorities to cooperate with him, said that he welcomed the progress made in the Middle East process and urged all the parties concerned to cultivate an attitude of tolerance, patience and moderation during what was admittedly a difficult transitional period.

65. The imposition of repressive measures and the meting out of collective punishment against Palestinians living in the occupied territories were counterproductive and unacceptable since they could not but increase tensions and frustrate the efforts of those supporting the peace process. The closure of the borders had deprived Palestinians of basic social services and was undermining an already fragile economy. Israel's continuing confiscation of Palestinian lands for the purpose of expanding Israeli settlements was also a matter of concern.

66. The peace process was the best way to guarantee peace and stability in the Middle East. In the circumstances, the Palestinians' primary concern was, of course, to ensure their own peace and security. Without security there could be no peace and without peace there could be no development. The international community must assist the Palestinians in their efforts to achieve economic, social and political well-being.

67. Mr. LEGAULT (Canada) said that, while there had been significant advances in the past year in the Middle East peace process, including the signing of the Interim Agreement on the West Bank and the Gaza Strip, the addition of nine localities to the autonomous Palestinian territories on the West Bank and the Gaza Strip, and the holding of the first free and democratic elections in Palestinian history, the recent terrorist attacks in Israel could jeopardize that patiently constructed edifice.

68. His Government had condemned those attacks and had participated in the recent summit on terrorism as a means of reaffirming its support for the peace process.

69. He welcomed the report of the Special Rapporteur on the situation of human rights in the occupied Palestinian territories (E/CN.4/1996/18) and wholeheartedly agreed with his assertion that only the continuation of the peace process could lead to a just, comprehensive and lasting peace in the Middle East, which was a precondition for guaranteeing respect for human rights.

70. He also welcomed the cooperation extended to the Special Rapporteur by the Palestinian Authority and agreed that his mandate should explicitly reflect the need for cooperation with that body. Like other country-specific mandates, that of the Special Rapporteur should be subject to annual review in the light of developments and should be considered under item 10 of the Commission's agenda.

71. Israel had legitimate concerns about the security of its citizens and was justified in taking steps to combat terrorism. At the same time, such actions could not be pursued at the expense of basic human rights. His Government was monitoring closely the human rights situation in the West Bank and the Gaza Strip and while noting the efforts of the Israeli Government to ensure greater respect for human rights, wished to stress that, until a final peace was negotiated, Israel remained bound by its obligations under the Fourth Geneva Convention. The potential effects of the collective measures on the already shaky economy of the West Bank and the Gaza Strip and on public support for the peace process was a matter of concern. The international community must consider how to mitigate those effects.

72. The Palestinian Authority was currently operating in a complicated transitional context. The recent holding of genuinely democratic elections demonstrated the desire of the Palestinian people to live in a democratic society and, in that connection, his delegation strongly encouraged the development of a pluralist civil society. Nevertheless, the troubling violations of rights and freedoms there could not be overlooked. His Government was ready to provide assistance to the Palestinian Authority to facilitate the development of a society based on respect for human rights, civil liberties and the rule of law.

73. Mr. ENDO (Japan) said that the Declaration of Principles on Interim Self-Government Arrangements had led to agreements between Israel and the Palestine Liberation Organization which had enabled the Palestinians to establish their own interim self-government in the West Bank and the

Gaza Strip. His delegation looked forward to the implementation of the Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip.

74. The signing of a peace treaty by Israel and Jordan was also a very important achievement since it paved the way for Israel and Jordan to explore the potential for future bilateral cooperation. His Government fully supported that process and wished to pay tribute to the Governments of Jordan and Israel for their courageous efforts to establish a partnership and work together for peace. It was to be hoped that that momentum could be sustained and that progress would be made in the negotiations between Israel and Lebanon on the one hand and Israel and Syria on the other.

75. The peace process being at a critical juncture, it was most important that the efforts of all the parties concerned should be further encouraged. It was also essential to enhance mutual trust so that, despite the series of recent terrorist attacks, progress would continue to be made. His Government condemned those attacks, which had caused death and suffering to innocent citizens, in the strongest terms. Because of its deep commitment to the peace process, it called upon all the parties concerned to accelerate their efforts to establish a just, comprehensive and lasting peace in the Middle East. It had been actively involved in the peace process in the region and had, for instance, been implementing a programme of economic assistance to the Palestinian interim self-government, promoting multilateral talks on subjects such as the environment and water supply and had sent units of the Japanese Self-Defence Force to participate in peace-keeping operations in the Golan Heights.

76. Japan would continue to support and contribute to the ongoing peace process because it was vital to the further promotion and protection of human rights in the region and the creation of an environment in which all the peoples there could enjoy a decent and peaceful life.

77. Mr. PANG Sen (China) said that, since serious violations of the right to self-determination continued to occur, the consideration of that issue by the Commission had great relevance. Despite the end of the cold war, acts of aggression and interference and attempts to control others and undermine the independence, sovereignty and territorial integrity of other countries continued unabated. Indeed there was an escalation of power politics in international relations and that was the biggest threat to the realization of the right to self-determination.

78. Moreover, while the Charter of the United Nations, the Vienna Declaration and Programme of Action and a host of other instruments clearly stipulated that the right to self-determination was the right of a particular country and its people to gain independence, to decide freely upon its own political system and pursue its own economic, social and cultural development, that right had been skilfully altered and turned into a tool for interfering in the internal affairs of other countries. Thus, under the guise of the periodic holding of free elections, the United Nations was called upon to draft patterns and standards, set up mechanisms and provide assistance, the aim being to introduce a political and economic model and force other countries to imitate it.

79. Self-determination was also being abused to incite and intensify ethnic conflict with a view to dismembering sovereign States. Such activities had already caused serious disruptions in some countries and regions, aggravating domestic instability and leading to civil wars or regional conflicts that posed a serious threat to world peace and stability.

80. China, a nation with a time-honoured civilization and a rich history of discoveries and inventions, had never been an aggressor and had never established a single overseas colony. Despite endless embargoes, blockades and slander, after the setting up of the People's Republic, China had not disintegrated, declined or collapsed but had found its own model of development. However, there were still over 70 million people in the country whose living conditions were unsatisfactory.

81. The realization of the right to self-determination did not end with the overthrow of colonial rule and the achievement of political independence. It was an arduous, ongoing and lengthy process and China needed a peaceful international environment to achieve further development. It had no ambition to rule over other countries and had no foreign military bases or troops stationed on foreign soil. Yet some people deemed fit to condemn China in the name of human rights. However, China was ready to coexist with all the countries of the world and was prepared to engage in international cooperation with all countries and make its contribution towards achieving all human rights and fundamental freedoms throughout the world.

82. Mr. Chung Il PARK (Republic of Korea) said that efforts to deliver a sustained and legitimate peace to the Middle East were currently as fragile as at any moment since the signing of the historic agreement in Washington. The recent acts of terrorism had disrupted the progress marked by presidential and municipal elections in Palestine on 20 January 1996. He wished to extend the heartfelt sympathy of his country to the families of the victims and to urge that the actions of a few extremists not be allowed to plunge the region back into the bloody past. Both the residents of the region and the international community must work together to revive faith in the peace process.

83. His delegation welcomed the report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 (E/CN.4/1996/18), which had been prepared under difficult circumstances. He shared the concern of the Special Rapporteur that, in addressing security problems, both sides should respect human rights. Security measures that amounted to collective punishment were indeed short-sighted. The recent anti-terrorism summit in Egypt had emphasized the need to find an effective strategy to combat terror within the rule of law.

84. His delegation endorsed the Special Rapporteur's conclusion that economic development was the key to the political stability and peace which would lead to greater respect for human rights. A thriving economic region constituted a viable alternative to a region torn by violent extremism. The international community could promote such an alternative by injecting support for economic normalization.

85. His Government had participated actively in efforts to support peace and prosperity in the Middle East. It had pledged US$ 12 million in grants

and loans to the Palestinian Authority and an additional grant totalling US$ 3 million had recently been announced by his country's Minister for Foreign Affairs. It had also made a firm commitment to participate in the funding of a number of specific projects.

86. He hoped that, in the occupied Arab territories and Palestine, the principles of self-determination and democracy would be respected. Those ingredients, when combined with respect for the rule of law, non-violence and peace would provide a powerful tool for the strengthening of all human rights.

87. Mr. HUSSAIN (Observer for Iraq) said the right to self-determination of peoples, a collective right, was linked to the imperative under which a people must not be deprived of its means of subsistence. Yet some States turned their backs on the implementation of human rights because it was not in line with their political interests. Such States, ever since the accession to independence of a number of countries, had sought to sabotage that independence by various means, including attempts to control natural resources. Such hegemonistic behaviour had strengthened in recent years, thus further undermining the right of peoples to self-determination. His country had borne the brunt of such policies, but continued to demonstrate its good intentions by calling, unfortunately in vain, for the normalization of the situation.

88. In 1991, after the end of military operations, the United States and its allies had unilaterally taken steps to partition Iraq and undermine its national unity, imposing an aerial exclusion zone north of the thirty-sixth parallel and south of the thirty-second. The continued imposition of an economic blockade was a violation of Iraq's right to enjoy its natural resources and the prohibition of oil exports deprived its people of their means of subsistence.

89. Those actions, which ran counter to the Charter and the international human rights instruments, should be opposed by the Commission since they adversely affected the independence and territorial integrity of a nation and undermined the right of a people freely to dispose of its natural resources.

90. Mr. de SANTA CLARA GOMES (Observer for Portugal) said that, in its capacity as administrating Power of the Territory of East Timor, Portugal had consistently drawn the Commission's attention to the unjust denial by Indonesia of the right of the East Timorese people to self-determination, which had led to other violations of fundamental human rights. Such violations would inevitably continue until the military occupation of the Territory was brought to an end.

91. The United Nations had pursued its efforts to promote an internationally acceptable solution. East Timorese leaders would shortly be meeting in Austria under the auspices of the Secretary-General and it was to be hoped that positive suggestions and recommendations would emerge from that meeting that would assist the eighth round of talks between Indonesia and Portugal. His Government, which had put forward a proposal that would certainly help in the search for a settlement, expected the Government of Indonesia to demonstrate the vision needed to find a solution respecting the Charter of the United Nations and satisfying the aspirations of the East Timorese.

92. Mr. SELEBI (Observer for South Africa) said that his Government was greatly concerned about the employment of mercenary soldiers anywhere in the world, and especially in Africa. It did not recruit, arm or pay any soldiers of fortune and was prepared to take immediate and drastic action against any organization or person on its territory involved in actions contrary to the sovereignty of African States or the self-determination of their peoples.

93. There had, nevertheless, been reports that certain mercenary activities in Africa were planned or coordinated from South African territory by a group of organizations known as "Executive Outcomes". South African legislation criminalized many aspects of mercenary activities, but investigation was hampered by the fact that the activities mainly took place in foreign jurisdictions. The Government was working to close a loophole in the law which allowed companies such as "Executive Outcomes" the opportunity to establish offshore companies and then employ South Africans internationally and would take strong action to bring those operations to an end.

94. Mr. ASSADI (Observer for the Islamic Republic of Iran) said that the report of the Special Rapporteur (E/CN.4/1996/18), together with the report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories (A/50/463), attested to the grim reality of gross and systematic violations of the human rights of the Palestinian people. They showed, albeit in circumspect language, what occupation really meant for the subjugated populace and made it abundantly clear that Israel was utterly oblivious to the decisions and wishes of the international community. Arbitrary arrests, mass imprisonment, torture, deliberate killings, extrajudicial executions and house demolition continued to form part of official policy and practice.

95. It was clear that the human rights situation of the Palestinians had even deteriorated. Draconian measures of collective punishment made a mockery of such concepts as peace and peaceful coexistence. The continued practice of land confiscation and settlement expansion was something that even the United States found difficult to underwrite.

96. The civilized West had sacrificed the self-determination of the Palestinians to expurgate itself of its crimes against European Jews. That was the very heart of the problem. Peace could be built only on the solid foundations of justice, and the Palestinian people in its entirety - whether under occupation or in the diaspora - was the only party qualified to give the final verdict on the merits of such justice.

97. Mr. ABRAM (World Jewish Congress) said that the hopes of the peace-loving world had been raised by the Middle East peace process and fortified by the recent ground-breaking conference against terrorism held in Egypt so that there had been every reason to expect to hear a great many statements against terrorism in the Commission. Instead, there had been much criticism of Israel for its recent counter-terrorism measures. It was legitimate for States to take reasonable and proportionate measures in response to terrorism and it was regrettable that Israel should have been demonized in the Commission for such measures, particularly by some of its so-called partners in peace.

98. It was also regrettable that the suicide bombings had not been formally condemned by the Security Council, the body charged with maintaining international peace and security, although it had strongly condemned the massacre by a lone Jewish extremist of 27 Muslims at Hebron. The silence of the Observer for Palestine and of various quarters of the human rights community concerning the bombings was equally disappointing.

99. The Commission should go beyond the traditional and general condemnations of terrorism it had produced in past sessions and align itself with the sentiments expressed at the anti-terrorism summit in Egypt, thereby placing itself in step with the Secretary-General and with the peace process.

100. Mr. HALINEN (Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967) said he welcomed the constructive, supportive and encouraging remarks made concerning his report (E/CN.1996/18), particularly the fact that many speakers agreed with him that his role and activities should be seen in the context of the peace process. Without the full cooperation of both the Government of Israel and the Palestinian Authority, the fulfilment of his task would not be possible.

101. The Centre for Human Rights had played a positive role in supporting human rights developments in the occupied territories and was preparing to launch a two-year, US$ 1.6 million programme of technical cooperation designed to assist the Palestinian Authority and Palestinian civil society to strengthen the promotion and protection of human rights under the rule of law, activities which he strongly supported.

The meeting rose at 1 p.m.